IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

WEDNESDAY, THE 20TH JUNE 2007 / 30TH JYAISHTA 1929

WP(C).No. 11969 of 2005(Y)

AGAINST THE ORDER IN EA 1082 2004 IN
OS.693/1993 of II ADDL.SUB COURT,TRIVANDRUM

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PETITIONER:

K.SIVASUBRAMANI, PONNI ELLAM,
TC.23/684, VALIASALAI, CHALA P.O.,
THIRUVANANTHAPURAM.

BY ADV. SRI.K.G.RENGANATH

RESPONDENT:

UNITED COMMERCIAL BANK
REPRESENTED BY ITS MANAGER, OVER BRIDGE JUNCTION,
THIRUVANANTHAPURAM.

BY ADV. SRI.L.MOHANAN
SMT.LIGEY ANTONY

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 20/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX(WPC 11969)

PETITIONER'S EXTS.:

EXT.P1: TRUE COPY OF THE AFFIDAVIT IN O.S.693/93 OF THE SUBORDINATE COURT, THIRUVANANTHAPURAM DT. 15.9.2004.

EXT.P2: TRUE COPY OF E.A.1082/04 IN O.S.693/93 OF THE SUB COURT, TRIVANDRUM DT. 15.9.2004.

EXT.P3: TRUE COPY OF ORDER IN I.A.1082/04 IN E.A.1082/04 IN O.S.693/03 DATED 4.4.2005 OF THE SUB COURT, THIRUVANANTHAPURAM.

PIUS C. KURIAKOSE,J.

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W.P.(C) No.11969 of 2005

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Dated: 20th June, 2007

JUDGMENT

I do not find any warrant for interfering with Ext.P3 order of the execution court which is impugned in this Writ Petition. I notice that while admitting the Writ Petition this court granted interim stay only on condition that the petitioner pays a sum of Rs.7500/- towards the decree debt. Learned counsel for the respondent is not very sure whether the above condition has been complied with. Learned counsel for the petitioner is absent also. Whatever that be, since it is submitted by the counsel for the respondent that the total E.P. claim will come around Rs.50,000/-, even as I repel the challenge against Ext.P3, I dispose of the Writ Petition directing that the stay presently passed will continue in force on condition that the petitioner will pay every month towards the decree debt a sum of Rs.5,000/- commencing from 16th July, 2007. In the event of any two defaults in the matter of payment of the instalments, the petitioner will forfeit the above benefit, in which event the impugned order will become operative and the court below will be justified in issuing coercive process against the petitioner.

srd **PIUS C.KURIAKOSE, JUDGE**